

AMENDED IN ASSEMBLY JUNE 25, 2007

**SENATE BILL**

**No. 853**

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**Introduced by Senator Ridley-Thomas**

February 23, 2007

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~~An act to add Sections 22943 and 22943.5 to the Government Code, relating to public employees' benefits, and making an appropriation therefor. An act to amend Section 1798.200 of, and to add Sections 1797.117 and 1798.203 to, the Health and Safety Code, relating to emergency medical services.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 853, as amended, Ridley-Thomas. ~~Public employees' benefits: Los Angeles Community College District. Emergency medical technicians: certificates: discipline.~~

*Existing law, the Emergency Medical Services System and the Prehospital Emergency Medical Care Personnel Act, provides for the certification of emergency medical technicians through the issuance of certificates, including EMT-I and EMT-II certificates, by local entities, known as local EMS agencies, which are designated by counties. Existing law also permits public safety agencies, for public safety personnel, and the State Board of Fire Services, for fire safety personnel, to issue EMT-I certificates. Existing law provides that the medical director of a local EMS agency or the Emergency Medical Services Authority may deny, suspend, or revoke certificates issued under these provisions, or may place a certificate holder on probation, upon finding the occurrence of any of specified events.*

*This bill would require the authority to maintain a centralized system for monitoring and tracing EMT-I and EMT-II certification status and EMT-P licensure status to be used by employers and local EMS agencies*

*as part of the background check process. The bill would require EMS providers to complete background checks on all EMT-I and EMT-II holders and to submit certification data.*

*This bill would require an EMS service provider who employs an EMT-I or EMT-II to submit to the local EMS agency disciplinary policies and procedures that are approved in a collective bargaining agreement, and would authorize the provider to impose prescribed discipline in accordance with those policies. The bill would, in absence of those policies and procedures, authorize the local EMS agency to impose discipline against an EMT-I or EMT-II certificate holder, upon specified determinations.*

*This bill would authorize the medical director of a local EMS agency to impose prescribed discipline for EMT-I or EMT-II personnel, to conduct audits of disciplinary proceedings, and to impose discipline if certain findings are made.*

*This bill would revise the grounds for which the authority may discipline EMT-P licensees to include, but not be limited to, denial of licensure by any other government entity, impersonating an applicant or acting as proxy for an applicant, and making a false statement in connection with an application.*

*By changing these enforcement requirements of local agencies, this bill would impose a state-mandated local program.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

~~The Public Employees' Medical and Hospital Care Act permits an employer, as defined, to elect to participate in the prefunding of health care coverage for annuitants. Under that act, if an employer elects to participate in the prefunding of health care coverage for annuitants, the Board of Administration of the Public Employees' Retirement System determines the contribution rate for that employer. Expenditure for the prefunding of health care coverage for annuitants is continuously appropriated from the Annuitants' Health Care Coverage Fund.~~

~~This bill would allow the Board of Administration of the Public Employees' Retirement System to authorize the Los Angeles Community College District to participate in the prefunding of health care coverage and other postemployment benefits for annuitants. The~~

bill would require the Los Angeles Community College District to contract with the board regarding specified terms and conditions of the prefunding of health care coverage and other postemployment benefits; and, if the prefunding plan or district participation terminates, would require distribution of the remaining assets of the district in a specified manner.

Upon authorization of that prefunding plan, this bill would increase the contributions to the Annuitants' Health Care Coverage Fund, a continuously appropriated fund, thereby making an appropriation.

Vote: majority. Appropriation: ~~yes~~no. Fiscal committee: yes. State-mandated local program: ~~no~~yes.

*The people of the State of California do enact as follows:*

- 1     *SECTION 1. The Legislature finds and declares all of the*
- 2     *following:*
- 3     *(a) The health and safety of Californians often depends on the*
- 4     *timely response and competent care of emergency medical service*
- 5     *personnel.*
- 6     *(b) Whether it is an automobile accident, heart attack, near*
- 7     *drowning, unscheduled childbirth, gunshot wound, or other life*
- 8     *critical incident, emergency medical technicians (EMTs) provide*
- 9     *vital, lifesaving, prehospital attention to the public, and assist in*
- 10    *transporting the sick or injured to an appropriate medical facility.*
- 11    *(c) Agencies charged with certifying EMTs as critical health*
- 12    *care providers have a duty to protect the integrity of the certificates*
- 13    *they issue.*
- 14    *(d) Effective monitoring and supervision of an EMT's activity*
- 15    *performed under the authority of the certificate is an integral*
- 16    *component of ensuring the safe and efficient delivery of lifesaving*
- 17    *services to the public.*
- 18    *(e) While many different agencies are authorized to issue EMT*
- 19    *certificates under current law, employers who hold direct*
- 20    *supervisory and disciplinary authority over the EMT certificate*
- 21    *holders remain the entity with the greatest credibility and*
- 22    *accountability to impose appropriate discipline according to*
- 23    *balanced due process procedures defined by statute, case law, and*
- 24    *collective bargaining agreements.*
- 25    *(f) The public is best served when policies and procedures are*
- 26    *enforced in a consistent and equitable manner.*

1 (g) *Maintaining consistent and accountable supervision of EMT*  
2 *certificate holders requires that pertinent information about*  
3 *certification be available to all EMS providers prior to the*  
4 *employment of an EMT.*

5 (h) *Ensuring the safety of the public as well as that of first*  
6 *responders requires that any entity that employs EMTs have access*  
7 *to pertinent information concerning any applicant's background*  
8 *and criminal history as a condition of their employment in any*  
9 *patient-care function.*

10 (i) *Local EMS agencies have a role to play in maintaining the*  
11 *consistency of department policies and their conformance with the*  
12 *legal requirements necessary to provide appropriate medical*  
13 *oversight and protect the public safety.*

14 SEC. 2. *Section 1797.117 is added to the Health and Safety*  
15 *Code, to read:*

16 1797.117. (a) *The Emergency Medical Services Authority shall*  
17 *maintain a centralized system for the monitoring and tracking of*  
18 *EMT-I and EMT-II certification status and EMT-P licensure status,*  
19 *to be used by the local emergency medical services agencies and*  
20 *employers of EMT personnel as part of their background check*  
21 *process. To the extent that additional funds are needed for this*  
22 *purpose, implementation of this subdivision shall be contingent*  
23 *upon a specific appropriation provided for this purpose in the*  
24 *annual Budget Act.*

25 (b) *The centralized system shall contain the full name of the*  
26 *EMT- I, EMT-II or EMT-P, the agency that issued the certificate*  
27 *or in the case of an EMT-P the license number, the date of issuance*  
28 *of the license or certificate and the licensure or certification status,*  
29 *and whether a background check was completed as a condition of*  
30 *licensure, certification, or employment.*

31 (c) *The Emergency Medical Services Authority shall develop,*  
32 *and after approval of the commission pursuant to Section 1799.50,*  
33 *adopt regulations to implement this section.*

34 (d) *For the purposes of this section the following definitions*  
35 *shall apply:*

36 (1) *"Certification status" means the current status of an EMT-I*  
37 *or EMT-II certificate or EMT-P license as active, inactive (not*  
38 *renewed), suspended, or revoked.*

39 (2) *"Background check" means a standard procedure developed*  
40 *by the authority and, after approval by the commission pursuant*

1 to Section 1799.50, adopted which shall require completion of a  
2 Federal Bureau of Investigation and Department of Justice  
3 criminal history, credit history, Department of Motor Vehicles  
4 history, organizations and affiliations, military service record,  
5 and work history.

6 (e) In order to participate as an authorized EMS service  
7 provider, an agency must complete a background check on all  
8 EMT-I and EMT-II certificate holders and submit the certification  
9 data as provided in this section.

10 SEC. 3. Section 1798.200 of the Health and Safety Code is  
11 amended to read:

12 1798.200. (a) ~~The~~ (1) An EMS service provider who employs  
13 an EMT-I or EMT- II shall submit disciplinary policies and  
14 procedures that are approved in a collective bargaining agreement  
15 to the local EMS agency having jurisdiction over the EMS service  
16 provider.

17 (2) The EMS service provider who employs an EMT-I or EMT-II  
18 may, in accordance with disciplinary policies and procedures  
19 submitted to the local EMS agency having jurisdiction over the  
20 EMS service provider pursuant to paragraph (1), deny, suspend,  
21 or revoke any EMT-I or EMT-II certificate issued under this  
22 division, or may place any EMT-I or EMT-II certificate holder on  
23 probation, upon the finding by the EMS service provider of the  
24 occurrence of any of the actions related to patient care listed in  
25 subdivision (c).

26 (3) In the case where an EMS service provider who employs an  
27 EMT-I or EMT-II does not have disciplinary policies and  
28 procedures approved in a collective bargaining agreement and  
29 has not submitted those policies and procedures pursuant to  
30 paragraph (1), the medical director of the local EMS agency may,  
31 in accordance with Chapter 6 (commencing with Section 100206)  
32 of Division 9 of Title 22 of the California Code of Regulations,  
33 deny, suspend, or revoke any EMT-I or EMT-II certificate issued  
34 under this division, or may place any EMT-I or EMT-II certificate  
35 holder on probation, upon the finding by that medical director of  
36 the occurrence of any of the actions related to patient care listed  
37 in subdivision (c). ~~The~~

38 (4) The authority shall ensure that the local EMS agency's or  
39 the EMS service provider's disciplinary policies and procedures  
40 are, at a minimum, as effective in protecting the due process rights

1 of any EMT-I or EMT-II certificate holder as those in Chapter 5  
2 (commencing with Section 11500) of Part 1 of Division 3 of Title  
3 2 of the Government Code.

4 (5) *The medical director of a local EMS agency having*  
5 *jurisdiction in consultation with the relevant EMS service provider*  
6 *may conduct audits of the disciplinary actions imposed by an EMS*  
7 *service provider to ensure that the policies and procedures are*  
8 *consistently applied as a result of actions related to patient care*  
9 *which may pose a threat to the public health and safety as*  
10 *described in subdivision (c).*

11 (6) *Based on the findings of a disciplinary audit, the medical*  
12 *director of a local EMS agency, upon consultation with the relevant*  
13 *EMS service provider, may issue a temporary suspension of an*  
14 *EMT-I or EMT-II certification pursuant to Section 1798.203 upon*  
15 *a finding by the medical director that the relevant EMS service*  
16 *provider failed to discipline the certificate holder or that the*  
17 *discipline imposed and reported by the relevant EMS service*  
18 *provider is not sufficient and the act or omission engaged in by*  
19 *the EMT-I or EMT-II certificate holder constitutes grounds for*  
20 *further disciplinary action.*

21 (7) *Upon a temporary suspension of an EMT-I or EMT-II*  
22 *certification pursuant to subdivision (a) of Section 1798.203 and*  
23 *after a determination by the authority that the temporary*  
24 *suspension order should continue pursuant to subdivision (b) of*  
25 *Section 1798.203, the authority may deny, suspend, or revoke any*  
26 *EMT-I or EMT-II certification issued under this division, or may*  
27 *place any EMT-I or EMT-II certificate holder on probation, upon*  
28 *a finding by the director of the occurrence of any action related*  
29 *to patient care that presents a threat to the public health and safety*  
30 *pursuant to subdivision (c). Proceedings against any EMT-I or*  
31 *EMT-II certificate or certificate holder shall be held in accordance*  
32 *with Chapter 5 (commencing with Section 11500) of Part 1 of*  
33 *Division 3 of Title 2 of the Government Code.*

34 (8) *Any information reported or disclosed by an employer*  
35 *pursuant to paragraph (5), (6), or (7) shall be deemed to be an*  
36 *investigatory communication and shall be exempt from disclosure*  
37 *pursuant to the California Public Records Act (Chapter 3.5*  
38 *(commencing with Section 6250) of Division 7 of Title 1 of the*  
39 *Government Code).*

(b) The authority may deny, suspend, or revoke any EMT-P license issued under this division, or may place any EMT-P license issued under this division, or may place any EMT-P licenseholder on probation upon the finding by the director of the occurrence of any of the actions listed in subdivision (c). Proceedings against any EMT-P license or licenseholder shall be held in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) Any of the following actions shall be considered evidence of a threat to the public health and safety and may result in the denial, suspension, or revocation of a certificate or license issued under this division, or in the placement on probation of a certificate or licenseholder under this division:

(1) Fraud in the procurement of any certificate or license under this division.

~~(2) Gross negligence.~~

*(2) Denial of licensure, revocation, suspension, or other disciplinary action against an EMT license or certification by another state or territory of the United States, by any other government agency, or by another California licensing entity. A certified copy of the decision or judgment shall be conclusive evidence of that action.*

~~(3) Repeated negligent acts.~~

*(3) Impersonating an applicant or acting as proxy for an applicant in any examination required under this division for the issuance of a certificate or license.*

*(4) Incompetence or gross negligence in carrying out usual certified or licensed EMT functions.*

~~(5) The commission of any fraudulent, dishonest, or corrupt act which is substantially related to the qualifications, functions, and duties of prehospital personnel.~~

*(5) Making or giving any false statement or information in connection with the application for issuance of a certificate or license.*

(6) Conviction of any crime which is substantially related to the qualifications, functions, and duties of prehospital personnel. The record of conviction or a certified copy of the record shall be conclusive evidence of the conviction.

(7) Violating or attempting to violate directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate,

1 any provision of this division or the regulations adopted by the  
2 authority pertaining to prehospital personnel.

3 ~~(8) Violating or attempting to violate any federal or state statute~~  
4 ~~or regulation which regulates narcotics, dangerous drugs, or~~  
5 ~~controlled substances.~~

6 *(8) Impersonating another certified or licensed practitioner, or*  
7 *permitting or allowing another person to use his or her certificate*  
8 *or license for the purpose of providing emergency medical services.*

9 ~~(9) Addiction to the excessive use of, or the misuse of, alcoholic~~  
10 ~~beverages, narcotics, dangerous drugs, or controlled substances.~~

11 ~~(10)~~  
12 (9) Functioning outside the supervision of medical control in  
13 the field care system operating at the local level, except as  
14 authorized by any other license or certification.

15 ~~(11) Demonstration of irrational behavior or occurrence of a~~  
16 ~~physical disability to the extent that a reasonable and prudent~~  
17 ~~person would have reasonable cause to believe that the ability to~~  
18 ~~perform the duties normally expected may be impaired.~~

19 ~~(12)~~  
20 (10) Unprofessional conduct exhibited by any of the following:

21 (A) The mistreatment or physical abuse of any patient resulting  
22 from force in excess of what a reasonable and prudent person  
23 trained and acting in a similar capacity while engaged in the  
24 performance of his or her duties would use if confronted with a  
25 similar circumstance. Nothing in this section shall be deemed to  
26 prohibit an EMT-I, EMT-II, or EMT-P from assisting a peace  
27 officer, or a peace officer who is acting in the dual capacity of  
28 peace officer and EMT-I, EMT-II, or EMT-P, from using that force  
29 that is reasonably necessary to effect a lawful arrest or detention.

30 (B) The failure to maintain confidentiality of patient medical  
31 information, except as disclosure is otherwise permitted or required  
32 by law in Sections 56 to 56.6, inclusive, of the Civil Code.

33 (C) The commission of any sexually related offense specified  
34 under Section 290 of the Penal Code.

35 *(D) Obtaining or possessing in violation of the law, or, except*  
36 *as directed by a licensed physician and surgeon, dentist, or*  
37 *podiatrist, administer to himself or herself, or furnish or administer*  
38 *to another, any controlled substance as defined in Division 10*  
39 *(commencing with Section 11000) of this code or any dangerous*  
40 *drug or dangerous device as defined in Section 4022.*



(E) Use of any controlled substance as defined in Division 10 (commencing with Section 11000) of this code or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or manner dangerous or injurious to himself or herself, any other person, or the public, or to the extent that the use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license or certification.

(F) Conviction of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subparagraphs (D) and (E), or the possession of, or falsification of a record pertaining to, the substances described in subparagraph (D), in which event the record of the conviction is conclusive evidence thereof.

(G) Being committed or confined by a court of competent jurisdiction for intemperate use of or addiction to the use of any of the substances described in subparagraphs (D) and (E), in which event the court order of commitment or confinement is prima facie evidence of that commitment or confinement.

(H) Falsifying, or making grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to substances described in subparagraph (D).

SEC. 4. Section 1798.203 is added to the Health and Safety Code, to read:

1798.203. (a) The medical director of the local EMS agency may, after consultation with the EMS service provider, temporarily suspend, prior to hearing, any EMT-I or EMT-II certificate upon a determination that all of the following conditions have been met:

(1) The certificate holder has engaged in acts or omissions that constitute grounds for revocation of the EMT-I or EMT-II certificate.

(2) Permitting the certificate holder to continue to engage in the certified activity would present an imminent threat to the public health or safety.

(3) The audit finds that the relevant EMS service provider failed to discipline or the discipline imposed by the relevant EMS service provider is not sufficient and the act or omission engaged in by the EMT-I or EMT-II certificate holder constitutes grounds for further disciplinary action.

(b) Upon a temporary suspension pursuant to subdivision (a), the local EMS agency shall notify the certificate holder that his

1 or her EMT-I or EMT-II certificate is suspended and shall identify  
2 the reasons therefor. Within three working days of notification,  
3 the local EMS agency shall transmit to the authority all  
4 documentary evidence collected by the local EMS agency regarding  
5 the decision to temporarily suspend the certificate. Within two  
6 working days of receipt of this documentary evidence, the director  
7 of the authority shall determine the need for the certification action.  
8 If the director of the authority determines that the temporary  
9 suspension order should not continue, the authority shall  
10 immediately notify the certificate holder and the relevant EMS  
11 service provider that the temporary suspension is lifted. If the  
12 director of the authority determines that the temporary suspension  
13 order should continue, the authority shall immediately notify the  
14 certificate holder, the medical director of the local EMS agency,  
15 and the relevant EMS service provider of the decision to continue  
16 the temporary suspension and shall, within 15 calendar days, serve  
17 the certificate holder with a temporary suspension order and  
18 accusation pursuant to Chapter 5 (commencing with Section  
19 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

20 (c) If the certificate holder files a notice of defense, the hearing  
21 shall be held within 30 days of the authority's receipt of the notice  
22 of defense. The temporary suspension order shall be deemed  
23 vacated if the authority fails to make a final determination on the  
24 merits within 15 days after the administrative law judge renders  
25 the proposed decision.

26 SEC. 5. This act shall not be construed to limit or otherwise  
27 impair the medical control of the medical director of a local EMS  
28 agency granted pursuant to Section 1798 of the Health and Safety  
29 Code.

30 SEC. 6. No reimbursement is required by this act pursuant to  
31 Section 6 of Article XIII B of the California Constitution because  
32 a local agency or school district has the authority to levy service  
33 charges, fees, or assessments sufficient to pay for the program or  
34 level of service mandated by this act, within the meaning of Section  
35 17556 of the Government Code.

36 SECTION 1. ~~Section 22943 is added to the Government Code,~~  
37 ~~to read:~~

38 ~~22943. The board may, in its discretion and upon terms and~~  
39 ~~conditions set by the board, authorize the Los Angeles Community~~  
40 ~~College District to participate in the prefunding of health care~~

1 coverage and other postemployment benefits for annuitants  
2 pursuant to this article. The Los Angeles Community College  
3 District shall enter into a contract with the board, setting forth the  
4 terms and conditions of that district's participation in the  
5 prefunding plan, including, but not limited to, funding,  
6 expenditures, and actuarial, accounting, reporting, and investment  
7 considerations.

8 SEC. 2. Section 22943.5 is added to the Government Code, to  
9 read:

10 22943.5. If the board terminates the prefunding plan or the  
11 participation of the Los Angeles Community College District in  
12 the prefunding plan, the assets attributable to the contributions by  
13 the district shall remain in the prefunding plan, for the continued  
14 payment of health care coverage and other postemployment  
15 benefits for annuitants and administrative costs, prior to any  
16 remaining assets being distributed to the district.